



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KERUGOYA**  
**JUDICIAL REVIEW NO. 3 OF 2015**  
**IN THE MATTER OF APPLICATION FOR LEAVE TO INSTITUTE JUDICIAL REVIEW**  
**PROCEEDINGS IN THE NATURE OF ORDERS FOR MANDAMUS AND PROHIBITON**  
**AND**  
**IN THE MATTER OF**  
**VIRGINIA WANGARI NJENGA.....APPLICANT**  
**(SUING AS THE ADMINISTRATOR OF THE ESTATE OF**  
**CHARLES NJENGA MUKUNA)**  
**VERSUS**  
**LAND REGISTRAR, MURANG'A.....1<sup>ST</sup> RESPONDENT**  
**EDWARD KINYUA NDURIRI.....2<sup>ND</sup> RESPONDENT**  
**(THE ADMINISTRATOR OF THE ESTATE OF**  
**HENRY NDURIRI NYAGA)**  
**ELIUD NICHOLAS GITONGA.....3<sup>RD</sup> RESPONDENT**

**RULING**

By a Chamber Summons dated and filed herein on 9<sup>th</sup> April 2015, the Ex-parte Applicant VIRGINIA WANGARI NJENGA seeks the following orders:-

- 1. That this Honourable Court do grant leave to the Applicant herein to apply for an order of prohibition barring the Land Registrar Murang'a from entertaining any further transactions or from making any further entries against the parcel of land known as LOC 2/MAKOMBOKI/86 until further orders of this Court or any other Court or High Court Nyeri.***
- 2. That this Honourable Court do grant leave to the Applicant herein to apply for an order of mandamus ordering the Land Registrar Murang'a to remove the entries against the parcel of***

***land known as LOC 2/MAKOMBOKI/86 made on 8<sup>th</sup> September 2014 i.e. removal of caution in favour of the applicant herein and transfer to the 3<sup>rd</sup> respondent***

***3. That the grant of leave to apply for the aforesaid orders do operate as a stay of any further transaction in respect of LOC 2/MAKOMBOKI/86 till the hearing and determination of this matter or until further orders of this Court or High Court Nyeri.***

The application is supported by the verifying affidavit of the Applicant.

I have considered the application as argued by Mr. Mugo Kamau Advocate for the Applicant as well as the verifying affidavit and other annexures.

From the application, what comes out is that the Applicant and the 2<sup>nd</sup> Respondent are parties in Nyeri High Court Civil Suit No. 146 of 2011 in which the subject matter is the parcel of land known as LOC 2/MAKOMBOKI/86 which is pending judgment before Mr. Justice A. Ombwayo who has however been transferred to the High Court Eldoret. However, while that judgment is still pending and notwithstanding the fact that a caveat had been placed on the said parcel of land, the 1<sup>st</sup> and 2<sup>nd</sup> Respondent secretly removed the said caveat without following the proper procedure or inviting the Applicant which was in breach of the rules of Natural Justice. The said caveat was removed on 9<sup>th</sup> September 2014.

In my view, the Applicant has established sufficient grounds for the orders sought in her application dated 9<sup>th</sup> April 2015. In accordance with **Rule 3(1) of Order 53 of the Civil Procedure Rules**, I hereby grant the orders sought therein and direct that the Applicant do file the Notice of Motion within 21 days from the date hereof. I further direct pursuant to **Rule 3(2) of the said Order 53 of the Civil Procedure Rules** that the Applicant shall serve the said Notice of Motion on the Respondent and all other parties that may be affected by it within 14 days of filing and thereafter file an affidavit indicating who has been served with the Notice of Motion.

I further direct pursuant to **Rule 1(4) of Order 53 of the Civil Procedure Rules** that the leave granted herein shall operate as a stay of any further transaction in respect of the parcel of land known as LOC 2/MAKOMBOKI/86 till the hearing and determination of the Notice of Motion to be filed or until further orders of this Court.

Costs shall be in the Notice of Motion.

**B.N. OLAO**

**JUDGE**

**24<sup>TH</sup> APRIL, 2015**

24/4/2015

Before

B.N. Olao – Judge

Gichia – CC

Mr. Abubakar for Mr. Mugo for Applicant – present

Respondent

COURT: Ruling delivered this 24<sup>th</sup> day of April, 2015 in open Court

Mr. Abubakar for Mr. Mugo for Applicant present.

**B.N. OLAO**

**JUDGE**

**24<sup>TH</sup> APRIL, 2015**